



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

January 14, 2005

Gayle Jackson, Treasurer
Ohio Democratic Party
271 E. State Street
Columbus, OH 43215

Response Due Date:
February 14, 2005

Identification Number: C00016899

Reference: 12 Day Pre-General Report (10/01/04-10/13/04)

Dear Ms. Jackson:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **An adequate response must be received at the Commission by the response date noted above.** An itemization of the information needed follows:

-Commission Regulations require that a committee disclose the identification of all individuals who contribute in excess of \$200 in a calendar year. (11 CFR §104.3(a)(4)(i)) Identification for an individual is defined as the full name, mailing address, occupation and name of employer. (11 CFR §100.12) Your report discloses contributions from individuals for which the identification is not complete.

You must provide the missing information, or if you are unable to do so, you must demonstrate that "best efforts" have been used to obtain the information. To establish "best efforts," you must provide the Commission with a detailed description of your procedures for requesting the information. Establishing "best efforts" is a three-fold process.

First, your original solicitation must include a clear and conspicuous request for the contributor information and must inform the contributor of the requirements of federal law for the reporting of such information. (11 CFR §104.7(b)(1))

Second, if the information is not provided, you must make one follow-up, stand alone effort to obtain this information, regardless of whether the contribution(s) was solicited or not. This effort must occur no later than 30

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days after receipt of the contribution and may be in the form of a written request or an oral request documented in writing. (11 CFR § 104.7(b)(2))
The request must:

- clearly ask for the missing information, without soliciting a contribution;
- inform the contributor of the requirements of federal law for the reporting of such information, and
- if the request is written, include a pre-addressed post card or return envelope.

Third, if you receive contributor information after the contribution(s) has been reported, you shall either a) file with your next regularly scheduled report, an amended memo Schedule A listing all the contributions for which additional information was received; or b) file on or before your next regularly scheduled reporting date, amendments to the report(s) originally disclosing the contribution(s). (11 CFR §104.7(b)(4))

Please provide the missing information or a detailed description of your procedures for requesting the information. For more information on demonstrating "best efforts," please refer to the Campaign Guide.

-Schedule H4 of your report discloses a payment(s) for "Canvass Consultant - Exempt", "Canvass Consultant" and "Voter File Update". Please be advised that 11 CFR §100.24(b) defines as Federal Election Activity, Voter identification, Generic Campaign and Get-out-the-vote activities conducted in connection with an election in which one or more candidates for Federal office appear on the ballot. Furthermore, the costs for these types of Federal Election Activity must either be paid with federal funds or allocated between federal and Levin funds. It appears that you have allocated these costs between federal and non-federal funds. Any reimbursement from your committee's non-federal account for Federal Election Activity costs is not permissible and must be returned. 11 CFR §§300.32 and 300.33

Please inform the Commission of your corrective action immediately or provide clarifying information regarding this activity. Although the Commission may take further legal action regarding this apparent prohibited activity, your prompt action will be taken into consideration.

-Schedule B supporting Line 30(b) of your report discloses a payment(s) for "Media Buy" and "Media Production" which is categorized as Federal Election Activity and therefore, may require the disclosure of the

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candidate(s) this activity should be attributed to. Expenditures and disbursements for public communications that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any candidate for Federal office, meet the definition of Federal Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s).

Further, please be advised that public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate rather than on Schedule B for Line 30(b). Please amend your report to properly disclose this activity or provide clarifying information.

-Schedule B supporting Line 30(b) of your report discloses a payment(s) for "Postage - Exempt Slate Card", "Printing - Exempt - Volunteer Handout", "Design Work - Exempt *memo text*: Volunteer Mailing", "Design Work - Exempt Volunteer Mail", "Labels - Exempt Volunteer Mailing", "Postage - Exempt Volunteer Mail", "Printing - Exempt *memo text*: Volunteer Mailing", "Printing - Exempt Volunteer Mail" and "Printing - Volunteer Mail - Exempt" which appears to meet the definition of Federal Election Activity ("FEA") and may also meet the conditions of exempt party activity as defined under 11 CFR §§100.80, 100.87, 100.89 and 11 CFR §§100.140, 100.147 and 100.149. Please be advised that activity which simultaneously constitutes both exempt activity and FEA must be paid for as an FEA activity.

If this apparent exempt activity represents Get-out-the-vote activity conducted in connection with an election in which one or more candidates for Federal office appear on the ballot, it is considered to be Federal Election Activity. If this apparent exempt activity represents Voter Registration activity during the period that begins on the date that is 120 calendar days before the date that a regularly scheduled Federal election is held and ends on the date of the election, it is considered to be Federal Election Activity. 11 CFR §100.24

If this apparent exempt activity is a public communication(s) (as defined under 11 CFR §100.26) that refers to a clearly identified candidate for Federal office and promotes, supports, attacks or opposes any candidate for Federal office, it meets the definition of Federal Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s).

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Further, public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate, rather than on Schedule B for Line 30(b).

Please amend your report to clarify (1) whether the activity disclosed meets the conditions of exempt party activity and (2) the type of FEA this activity represents or provide clarifying information as to why it does not meet the definition of FEA. In addition, please properly disclose this activity if necessary.

-Schedule H4 supporting Line 24(a) of your report discloses a payment(s) for "Liability Insurance". Please be advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity or activities in connection with a Federal election must not be allocated between or among federal and non-federal accounts. Rather, only federal funds may be used. Further, the Commission concluded in Advisory Opinion 2003-11 that amounts spent for employee-specific "fringe benefits," consisting of health insurance, disability insurance, life insurance, retirement benefits and payroll taxes, fall into the category of compensated time.

Any reimbursement from your committee's non-federal account for this payment is not permissible and must be returned. Although the Commission may take further legal action regarding this improper allocation activity, your prompt action will be taken into consideration.

-Schedule H4 of your report discloses \$27,065 in payments for "Canvass Consultant" and "Canvass Consultant-Exempt" to individuals. Please clarify whether these individuals are employees of your committee. You are advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity or activities in connection with a Federal election must not be allocated between or among federal, non-federal and Levin accounts. Rather, only federal funds may be used. Any reimbursement from your committee's non-federal or Levin account for salary and wage payments is not permissible and must be returned. Please provide clarification regarding these payments.

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-Schedule A supporting Line 12 discloses a transfer(s)-in from the Democratic National Committee. Schedule B supporting Line 30(b) reflects payments for "Yard Signs", "Yardsigns", "Printing -- Exempt -- Volunteer Handout", "Design Work -- Exempt", "Design Work -- Exempt Volunteer Mail", "Labels -- Exempt Volunteer Mailing", "Postage -- Exempt Volunteer Mail", "Printing -- Exempt", "Printing -- Exempt Volunteer Mail" and "Printing -- Volunteer Mail -- Exempt". Please be advised that a state or local party committee may pay for campaign materials (such as bumper stickers) that are distributed by volunteers in connection with activity on behalf of the party's nominees in a general election. Payments for this type of activity are exempt from the definition of a contribution or expenditure if certain conditions are met. The conditions are that no public advertising may be used, including distribution by direct mail (mailings by a commercial vendor or from commercial lists); all funds used for the activity must be permitted under the Act; none of the funds used may have been designated for a particular candidate; and finally, payments for the activity may not be made from transfers-in from the national committee to specifically fund the activity. For further guidance, please refer to 11 CFR §§100.87 and 100.147 and to the Campaign Guide for Party Committees.

Please clarify the nature of the transfer(s)-in and subsequent payments for the aforementioned disbursement(s). If the activity disclosed on your report does not meet the definition of "exempt" activity as described above and if any portion of the expenditures were made on behalf of specifically identified candidates, that amount must be disclosed on Schedule B, E or F supporting Line 23, 24 or 25 of the Detailed Summary Page as appropriate.

Unlike previous election cycles, you will not receive an additional notice from the Commission on this matter. Adequate responses received on or before this date will be taken into consideration in determining whether audit action will be initiated. Requests for extensions of time in which to respond will not be considered. Failure to provide an adequate response by this date may result in an audit of the committee. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action.

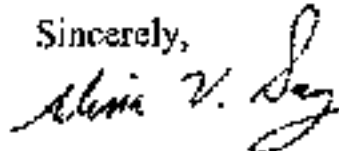
Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any

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questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1153.

Sincerely,



Alissa V. Saggi

Senior Campaign Finance Analyst
Reports Analysis Division

